

A PROFESSIONAL
LAW CORPORATIONOne Utah Center
201 South Main Street, Suite 1800
Post Office Box 45898
Salt Lake City, Utah 84145-0898
Telephone 801 532-1234
Facsimile 801 536-6111AUG 29 '03 14:35
E

FACSIMILE TRANSMISSION

DATE: August 29, 2003

TO:

NAME	FAX NO.	PHONE NO.
Examiner Mark A. Fadok UNITED STATES PATENT AND TRADEMARK OFFICE	(703) 746-7239	(703) 605-4252

FROM: Everett D. Robinson

PHONE: (801) 536-6724

SENT BY: Irevia P. Noren

PHONE: (801) 536-6681

CLIENT-MATTER NUMBER: 06296.002

NUMBER OF PAGES WITH COVER PAGE: 12

ORIGINALS WILL NOT FOLLOW

MESSAGE:

RE: Inventor: Brian K. Wharton
Title: "Electronic Commerce System and Method"
Serial Number: 09/383,279
Examiner: Mark A. Fadok
Group Art Unit: 2165

Dear Examiner Fadok:

Please see document transmitted herewith.

RECEIVED
CENTRAL FAX CENTER

SEP 02 2003

OFFICIAL

RECEIVED

SEP 04 2003

GROUP 3600

CAUTION - CONFIDENTIAL

THIS FACSIMILE INFORMATION IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE PERSON RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU MAY NOT USE, DISSEMINATE, DISTRIBUTE OR COPY THIS COMMUNICATION. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (801) 536-6700 AS SOON AS POSSIBLE.

Received from <801 536 6109 4> at 8/29/03 4:46:27 PM [Eastern Daylight Time]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Wharton, Brian K.
TITLE: Electronic Commerce System and Method
FILING DATE: August 26, 1999
SERIAL NO.: 09/383,279
DOCKET: 214014600004/06296.010

EXAMINER NAME: Mark A. Fadok
GROUP ART UNIT: 2165

Director of the United States Patent and Trademark Office
Mail Stop Assignment Recordation Services
P.O. Box 1450
Alexandria, VA 22313-1450

**RECEIVED
CENTRAL FAX CENTER**

SEP 02 2003

COVER LETTER

Honorable Director:

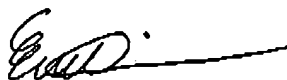
Please find attached:

- (1) A true copy of a document evidencing the merger of Netgateway, Inc., a Nevada corp. into Netgateway, Inc., a Delaware corp.,
- (2) A true copy of a document evidencing a change of name of Netgateway, Inc. into Imergent, Inc., and
- (3) A power of attorney and change of correspondence address.

Applicant provides the attached documents to show a chain of title from Netgateway, Inc., a Nevada corp. to Imergent, Inc., a Delaware corp., making Imergent, Inc. the applicant. For your information, the current address of Imergent, Inc. is 745 East Technology Avenue, Orem, Utah 84097. Please address all future correspondence as directed in the attached power of attorney of Imergent, Inc.

Applicant filed on June 20, 2003 a petition to revive this application with an amendment and response. The last correspondence received by the applicant from the examiner was dated March 22, 2002 in the form of a non-final office action. Applicant requests that any correspondence mailed after that date up to the present be copied from the file and sent to Mr. Robinson at the address noted in the power of attorney, so applicant can prepare any necessary replies.

Respectfully submitted this 29 day of August, 2003.



Everett D. Robinson
Reg. No. 50,911
PARSONS, BEHLE & LATIMER
333 South 520 West, Suite 220
Lindon, Utah 84042
(801) 805-3925

RECEIVED

SEP 04 2003

GROUP 3600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____.

Typed or printed name of person signing this certificate:

Everett D. Robinson

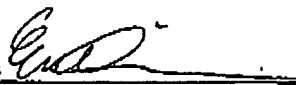
Signature _____

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted the United States Patent and Trademark Office, Fax No. (703) 746 - 7239 on Aug. 29, 2003.

Typed or printed name of person signing this certificate:

Everett D. Robinson

Signature 

#12
9-24-03
me

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Wharton, Brian K.
TITLE: Electronic Commerce System and Method
FILING DATE: August 26, 1999
SERIAL NO.: 09/383,279
DOCKET: 2140146000004
EXAMINER NAME: Mark A. Fadok
GROUP ART UNIT: 3625

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

POWER OF ATTORNEY

The assignee of record of the entire interest, Imergent, Inc., hereby appoints Everett D. Robinson (Reg. No. 50,911), Jon C. Christiansen (Reg. No. 30,039), Daniel P. McCarthy (Reg. No. 36,600), Vanessa B. Pierce (Reg. No. 42,274), Lloyd W. Sadler (Reg. No. 40,154), James L. Sonntag (Reg. No. 30,224), Ryan Marshall (Reg. No. 47,770), Allison B. Mohr (Reg. No. 48,170), and Douglas Bucklin (Reg. No. 51,208) as its representatives and attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. All communications should be directed to Mr. Robinson at the following address or telephone number:

Everett D. Robinson
PARSONS, BEHLE & LATIMER
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, Utah 84145-0898
(801) 532-1234 or (801) 805-3925

Signature of Assignee of Record	
Name	Frank C. Hayman
Signature	Frank C. Hayman
Date	8-26-03

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

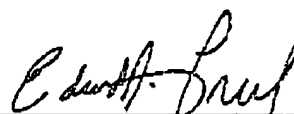
"NETGATEWAY, INC.", A NEVADA CORPORATION,
WITH AND INTO "NETGATEWAY, INC." UNDER THE NAME OF
"NETGATEWAY, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER
THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS
OFFICE THE SECOND DAY OF NOVEMBER, A.D. 1999, AT 2 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE
NEW CASTLE COUNTY RECORDER OF DEEDS.



3042135 8100M

991465375



Edward J. Freel, Secretary of State

AUTHENTICATION:

DATE:

0060072

11-02-99

CERTIFICATE OF OWNERSHIP AND MERGER

OF

NETGATEWAY, INC., A NEVADA CORPORATION

WITH AND INTO

NETGATEWAY, INC., A DELAWARE CORPORATION

(Pursuant to Section 253 of the Delaware General Corporation Law)

NETGATEWAY, INC., a Delaware corporation (the "Corporation"), does hereby
certify:

- FIRST:** That the Corporation was incorporated on May 12, 1999 pursuant to the General Corporation Law of the State of Delaware (the "DGCL").
- SECOND:** That all of the outstanding shares of common stock, par value \$.001 per share (the "Corporation Common Stock"), of the Corporation is owned of record by Netgateway, Inc., a Nevada corporation (the "Parent"), and the Corporation has issued and outstanding no class of capital stock other than the Corporation Common Stock.
- THIRD:** That the Corporation, the surviving Delaware corporation, by the following resolutions of the Board of Directors thereof duly adopted by unanimous written consent without a meeting, pursuant to Section 141(f) of the DGCL, duly adopted as of October 21, 1999, determined to merge itself with the Parent so as to be the surviving corporation of such merger, in accordance with the terms, and subject to the conditions, set forth in such resolutions:

WHEREAS, Netgateway, Inc., a Nevada corporation (the "Parent") is the legal and beneficial owner of all of the outstanding shares of common stock, par value \$.001 per share (the "Corporation Common Stock"), of the Corporation; and

WHEREAS, the Corporation Common Stock is the only issued and outstanding class of capital stock of Corporation; and

WHEREAS, the Corporation desires to merge itself with the Parent so as to be the surviving corporation of such merger pursuant to the

provisions of Section 253 of the General Corporation Law of the State of Delaware.

NOW, THEREFORE, BE IT

RESOLVED, that, subject to the approval of the stockholders of the Parent, the Parent merge itself with and into the Corporation (the "Merger"), which will assume all of the obligations of the Parent.

RESOLVED, that the terms and conditions of the proposed Merger are as follows: Upon the Merger becoming effective, the outstanding Corporation Common Stock, all of which had theretofore been held by the Parent, shall be canceled and shall cease to be outstanding, without any payment being made in respect thereof; each share of common stock, no par value, of the Parent (the "Parent Common Stock") outstanding immediately prior to the effectiveness of the Merger shall, upon the effectiveness of the Merger, without further act or deed, be deemed to represent one share of Corporation Common Stock; upon the surrender by any stockholder of the Parent of such stockholder's certificates formerly representing outstanding shares of Parent Common Stock, the Corporation shall issue to such stockholder a stock certificate representing an equal number of shares of Corporation Common Stock; upon consummation of the Merger, the directors of Parent shall become the sole directors of the Corporation until the election and qualification of their respective successors, and the officers of the Parent shall hold such offices of the Corporation, subject to the discretion of the Board of Directors.

RESOLVED, that upon the Merger becoming effective, the 1998 Stock Compensation Plan, 1998 Stock Option Plan for Executives and 1999 Stock Option Plan for Non-Executives of Parent shall be adopted as the 1998 Stock Compensation Plan, 1998 Stock Option Plan for Executives and 1999 Stock Option Plan for Non-Executives of the Corporation.

RESOLVED, that, subject to the requirements of the law of the State of Delaware, the officers of the Corporation be, and each of them with full authority to act without the others hereby is, authorized and empowered to do and perform, or cause to be done and performed, all such further acts, deeds and things, and to prepare, execute and file with the appropriate authorities, or cause to be prepared, executed and filed with the appropriate authorities, all such further certificates, documents and instruments, in the name and on behalf of the Corporation and under its corporate seal if necessary, and otherwise, as the officer or officers executing the same may deem to be necessary or desirable to carry out and to effectuate the purposes of the foregoing resolutions.

08/29/03 14:45 FAX 801 536 6109 4

008

NOV-02-1999 13:40

C T CORPORATION

1212 894 8490 P.04/05

FOURTH: That the merger has been adopted, approved, certified, executed, and acknowledged by the Parent in accordance with the laws of the State of Nevada, the jurisdiction of incorporation of the Parent.

IN WITNESS WHEREOF, the Corporation has caused its corporate seal to be affixed
and this certificate to be executed this 23 day of October, 1999.

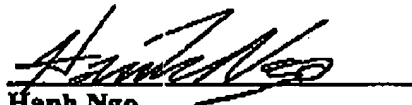
NETGATEWAY, INC. (NEVADA)

By:



Donald M. Corliss, Jr.
President

ATTEST:


Hanh Ngo
Secretary

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "NETGATEWAY, INC.", CHANGING ITS NAME FROM "NETGATEWAY, INC." TO "IMERGENT, INC.", FILED IN THIS OFFICE ON THE SECOND DAY OF JULY, A.D. 2002, AT 4:30 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF AMENDMENT IS THE SECOND DAY OF JULY, A.D. 2002, AT 5 O'CLOCK P.M.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

3042135 8100

AUTHENTICATION: 1997415

07/01/02 13:50 FAX 801 536 6109 4

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 04:30 PM 07/02/2002
020427017 - 3042135

**CERTIFICATE OF AMENDMENT
TO THE CERTIFICATE OF INCORPORATION
OF NETGATEWAY, INC.**

Netgateway, Inc. a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY as follows:

1. That Article FIRST of the Corporation's Certificate of Incorporation is hereby amended to read as follows:

"FIRST. The name of the corporation is Imergent, Inc. (the "Corporation")."

2. That Article FOURTH of the Corporation's Certificate of Incorporation is hereby amended by adding the following new first paragraph to Article FOURTH, Paragraph A:

"FOURTH. A. (1) That, effective as of 5:00 p.m., eastern time, on the filing date of this Certificate of Amendment of this Certificate of Incorporation (the "Effective Time"), a one-for-ten reverse stock split of the Corporation's common stock shall become effective, pursuant to which each ten shares of common stock outstanding and held of record by each stockholder of the Corporation (including treasury shares) immediately prior to the Effective Time shall be reclassified and combined into one share of common stock automatically and without any action by the holder thereof upon the Effective Time and shall represent one share of common stock from and after the Effective Time. No fractional shares of common stock shall be issued as a result of such reclassification and combination. In lieu of any fractional shares to which the stockholder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of the common stock as determined by the Board of Directors of the Corporation."

3. That the existing paragraph A of Article FOURTH of the Corporation's Certificate of Incorporation hereby becomes the second sub-paragraph of Article FOURTH, Paragraph A and is changed to read as follows:

"(2) The aggregate number of shares which the Corporation shall have authority to issue is 105,000,000, par value \$.001 per share, of which 100,000,000 shall be designated Common Shares and 5,000,000 shares shall be designated Preferred Shares."

4. That the Board of Directors of the Corporation, at a meeting held on May 9, 2002, adopted a resolution proposing and declaring advisable the above amendments to the

07/01/02 13:50 FAX 801 536 6109 4

003

- Certificate of Incorporation of the Corporation and directed the said amendments be submitted for consideration at a special meeting of the Corporation's stockholders.
5. That the aforesaid amendments have been duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.
 6. That this Certificate of Amendment of the Corporation's Certificate of Incorporation shall be effective at 5:00 p.m., eastern time, on the date of filing with the Secretary of the State of Delaware.

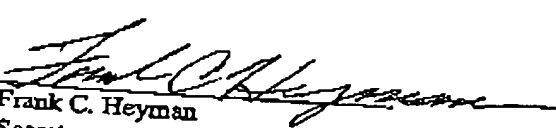
IN WITNESS WHEREOF, Netgateway, Inc. has caused this Certificate to be signed by John J. Poelman, its Chief Executive Officer and a Director, and attested by Frank C. Heyman, its Secretary and Chief Financial Officer, this 28th day of June, 2002.

NETGATEWAY, INC.

By:


John J. Poelman
Director and Chief Executive Officer

Attest:


Frank C. Heyman
Secretary and Chief Financial Officer